

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LARRY GLENN MCDOWELL,

Plaintiff,

vs.

STATE OF NEVADA, *et al.*,

Defendants.

2:13-cv-2236-JCM-VCF

ORDER

This matter involves incarcerated *pro se* Plaintiff Larry Glenn McDowell's section 1983 action against twelve Defendants for violations of McDowell's Eighth Amendment rights. (*See* Compl. (#1-1) at 6–18). Before the court are McDowell's amended complaint (#5) and motion for leave to file a longer than normal first amendment complaint (#6).

On December 6, 2013, McDowell filed an application to proceed *in forma pauperis* and a complaint. On December 12, 2013, this court entered an order and report and recommendation, which granted McDowell's application to proceed *in forma pauperis* and recommended (1) dismissing a portion of McDowell's claims and (2) granting McDowell leave to amend his complaint. The report and recommendation is pending before the Honorable James C. Mahan, United States District Judge.

Nonetheless, on January 17, 2014, McDowell filed the instant amended complaint (#5) and motion for leave to file a longer than normal first amendment complaint (#6). Because Judge Mahan has not yet ruled on this court's report and recommendation, McDowell's filings are unripe. Ripeness is a legal doctrine that states that courts will only entertain cases, controversies, or motions that require "immediate" review. *Abbott Labs. v. Gardner*, 387 U.S. 136, 153 (1967) (abrogated on other grounds).

1 Because McDowell original complaint has not been dismissed or otherwise adjudicated by Judge
2 Mahan, the original complaint is the operative complaint and the only complaint requiring “immediate”
3 review.

4 As a result, McDowell’s amended complaint (#5) and motion for leave to file a longer than
5 normal first amendment complaint (#6) are unripe and stricken from the docket. *See Ready Transp., Inc.*
6 *v. AAR Mfg., Inc.*, 627 F.3d 402, 404 (9th Cir. 2010) (citations omitted) (holding that district courts have
7 inherent power to control their docket, which includes the power to strike items from the docket).

8 The court advises McDowell to rest assured that the court will address his complaint in due
9 course. The time to file an amended complaint has simply not yet arrived.

10 ACCORDINGLY, and for good cause shown,

11 IT IS ORDERED that McDowell’s amended complaint (#5) is STRICKEN.

12 IT IS FURTHER ORDERED that McDowell’s motion for leave to file a longer than normal first
13 amendment complaint (#6) is DENIED AS UNRIPE.

14 DATED this 3rd day of February, 2014.

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18 CAM FERENBACH
19 UNITED STATES MAGISTRATE JUDGE
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